



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 21, 1997

Mr. Hugh W. Davis, Jr.
Assistant City Attorney
The City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR97-2340

Dear Mr. Davis:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 110357.

The City of Fort Worth (the "city") received three requests for the 9-1-1 tape of a specified incident, which occurred on August 18, 1997. You submitted to this office for review, in response to the request, a copy of a 9-1-1 audio tape which you assert is responsive to the request. You claim that the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We first consider whether the submitted audio tape may be withheld pursuant to section 552.108. We note that the Seventy-fifth Legislature amended section 552.108 of the Government Code to read as follows:

- (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:
 - (1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation;

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation;

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

See Gov't Code § 552.108. You have submitted information which indicates that the requested 9-1-1 tape is part of an ongoing criminal investigation. After reviewing the submitted information, we believe that the material at issue is information of a law enforcement agency that deals with the investigation and prosecution of crime. As the requested information relates to a pending criminal investigation, we find that release of the

requested information would interfere with the detection, investigation, or prosecution of crime. Open Records Decision No. 216 (1978). Therefore, the requested 9-1-1 tape may be withheld in its entirety pursuant to section 552.108(a)(1).

As we resolve your request under section 552.108, we need not specifically address your other claimed exception at this time. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Sam Haddad
Assistant Attorney General
Open Records Division

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Ref.: ID# 110357

Enclosures: Submitted audio tape

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